

Utah State Building Board



MEETING

March 15, 2000

MINUTES

On Wednesday, March 15, 2000, a regularly scheduled Utah State Building Board monthly meeting was held at the State Office Building Room #4112 and later moved to the State Office Building Auditorium, Salt Lake City. The meeting was called to order at 8:00 a.m. by Chairman David Adams.

Utah State Building Board Members in attendance:

David Adams, Chair
Keith Stepan, Vice Chair
Chuck Canfield
R. Haze Hunter
Kay Waxman
Joseph Jenkins
Lynne Ward

Utah State Building Board Members excused:

Mary L.C. Flood

DFCM and Guests in attendance:

See "Attachment #1" for list of attendees

☐ DISCUSSION OF STRATEGY FOR LITIGATION (CLOSED SESSION).....

MOTION: Joe Jenkins made a motion to move into executive session for the purpose of discussing strategy on litigation. The motion was seconded by Keith Stepan and passed unanimously.

MOTION: Joe Jenkins made a motion to move out of executive session. The motion was seconded by Kay Waxman and passed unanimously.

❑ **APPROVAL OF MINUTES.....**

MOTION: Kay Waxman made a motion to approve the minutes from the State Building Board meeting held on February 2, 2000. The motion was seconded by Keith Stepan and passed unanimously.

❑ **ADMINISTRATIVE REPORTS**

University of Utah

John Huish reported there were no activity in the Architect/Engineer contract category for the period of January 14 - February 25, 2000. There was one construction contract awarded to Veritas, Inc., for the installation of fiber optics and utility relocation necessary in order to begin construction at the Eccles Broadcast Center addition and expansion, contract amount was \$324,364. No activity in the Contingency Reserve Fund. There were 29 active projects with a monetary value of \$110 million.

MOTION: Motion was made by Haze Hunter to accept the delegation report of University of Utah. The motion was seconded by Kay Waxman and passed unanimously.

Utah State University

Jay Nielsen reported one Architecture/Engineering Agreement awarded on the Natural Resources Building II Renovation during the period of January 12 - February 16, 2000. There were three construction projects awarded; 1) Utah Botanical Center Phase I (Greenhouse and Maintenance Facility), 2) paving of parking lot by buildings #46 and 52, 3) paving of shuttle access. No changes in the Contingency Reserve Fund or the Project Reserve Fund. There were 37 active projects totaling about \$18 million.

Joe Jenkins asked Mr. Nielsen how he proposed to use the money allocated by the Legislature for the re-building of the Boiler Plant at Utah State University, considering that the Legislature funded only a portion of the project and it is unknown if the Legislature will provide the additional funds needed to complete the project. Richard Byfield stated that the Legislature addressed this issue by introducing language that would permit the State to use design build, limiting spending to \$9.2 million this year, and modifying the agreement if the Legislature appropriated the additional funds. Mr. Byfield responded to Mr. Jenkins question, that if the project doesn't get fully funded, we do have a project that is half-done, unusable and in essence a waste of money, because it does require the completion of the entire project in order to be successful.

Kevin Walthers responded by stating the chances of the project going unfunded is not very high. The intent language suggests that we go ahead with design build and

communicate that they are committed to doing it. Mr. Jenkins asked Mr. Nielsen what he thought about the funding of the project, i.e., what kind of problems are going to be caused due to the limited funding? Is it going to increase the cost? Jay Nielsen responded by stating that it appeared evident that the most sensible use of the \$9 million is to shell in the Heat Plant, possibly do an early order on some of the boilers.

The bottom line is that \$9 million would not provide a functional heating system that is usable. Mr. Nielsen said he could not suggest a way to do that. Mr. Jenkins indicated that it appeared to him while he visited Utah State University (in September, 1999) from listening to staff that there was a real problem with the boilers, with some of the boilers going down, therefore, not creating enough heat to do the classes, and that \$9 million would in no way help alleviate the problems with the boilers. Mr. Nielsen confirmed Mr. Jenkins statements. Mr. Jenkins further stated that even if you had a boiler that was good and a transmission system that was not as good, it would solve part of the problem, and with \$9 million it would not solve them. Mr. Nielsen indicated there was a scenario that would suggest that we retrofit new boilers into the old plant and maximize the use of the \$9 million.

Mr. Walthers stated that if the Legislature would have provided \$41 million for the USU Heat Plant project, USU could not have spent the \$41 million this year, requiring a bond that would have just sat there for a year not being used. Mr. Walthers believes the Legislature decided they could fund part of the project and re-visit it next year to fund the remaining. They agreed to the \$10 million addition in costs. Everybody was on board with the idea that we need to do the full \$41 million worth of tunnel, and Mr. Walthers doesn't believe it was accurate to say that the Legislature didn't fix the problem. He believes that the Legislature did fix the problem, and plans on creating a method to do that and still be able to fund other important projects in the State without using the bonds. Mr. Walthers indicated that it would be helpful in understanding this issue by reviewing the Governor's list against what the Legislature did, the Governor actually advocated putting this project off one year. In Mr. Walthers' view, the Legislature creatively took a problem and really looked at it of how to resolve it, and were confident with the assumption that this project would be fully funded in a two-year period. They were also confident that the \$9 million would in fact give a jump start on the project. Mr. Byfield identified an opportunity to cut a heating season out of this project which would be a challenge for them, but they are willing to step up to.

Keith Stepan indicated that it may be a wise expenditure, but it depends on some assumptions: The assumption that it will funded next year, but also the assumption that you could make the phased project cost efficient. How far can you go and still be efficient? With the whole project, you may waste some money while making a transition between what you could do now and what you could do later. Yet to be seen

is if it can be work out based on some assumptions.

Haze Hunter asked Mr. Walthers if we were back to phased funding? Mr. Walthers responded that he does not think we are, what they were doing was taking projects that could not be completed and were not State projects, like building an office building, phasing was one construction cycle over a two-three years, instead of saying this year we could only spend so much money, we could finish that project. We certainly cannot afford \$41 million in one shot for it to sit around and do nothing. What we did, technically is phase funding. In his discussions with the Legislative Committee Chair they thought that this was a different sort of animal, it is not phasing it so that it fit, they're phasing it so that they could afford it politically. It is coming up with a way to address the problem properly without essentially killing every other project.

Chairman Adams indicated the message for the Legislature from the Building Board is that the Legislature clearly had the opportunity to provide the funding if they had elected to bond, and the Governor indicated he would not oppose a bond, and obviously this is going to cost more to build the project this way than it would if we could prosecute all the work at once. Mr. Walthers disagreed with the Chair's comments and further explained that if we bonded for \$40 million, that would come up to \$800,000 a year in interest costs, and it would end up costing us an extra \$4 to \$5 million in interest costs. Mr. Adams believes that this way is going to cost an extra \$5 million in the project by doing it in steps. That is \$5 million that we could use on other projects next year.

Chuck Canfield indicated it would appear to most of the Building Board's concerns was the way it was handled, that is really not a total obligation, maybe an implied obligation. Utah State University doesn't have any other alternative than to do what they're doing, which will end up costing more. It appears to be a phase situation no matter how we look at it. The Board is objecting to the fact that it was not fully provided for up front.

Mr. Nielsen asked Mr. Walthers if the final intent language suggests that without the total dollars that we could bid the entire project. Mr. Walthers confirmed that. Mr. Nielsen indicated that would help to bridge the gap between the phasing of the funds.

Mr. Byfield pointed out that we could bring a design build team in full, one of the goals of design build team is that if they could accelerate the schedule in order to meet the opening date, but they are unable to do that because of the need to wait for cash to come in, that's where the added cost in the equation of the proposal could come in.

MOTION: **Motion was made by Keith Stepan to accept the delegation report of the Utah State University. The motion was seconded by Haze Hunter and passed unanimously.**

❑ **REPORT ON 2000 LEGISLATIVE SESSION.....**

Ken Nye referred to the Capital Budget Summary for the 2000 Legislative Session (distributed to those in attendance). This document summarizes all the capital development projects funded by the Legislature. The Legislature made extensive efforts to be creative on how to fund without bonding. However, they authorized \$8.6 million in new bonding for the Capital facilities. A \$7million bond for a computer system for the Tax Commission was re-directed to go the State Hospital project. The Legislature also added \$1.6 million to the projects funded from the 1997 bond. This is new debt that otherwise would not have been issued, but it is within the authorized bond level in the earlier year. They also redirected \$1,889,200 from DFCM Project Reserve Funds. There was \$36,500 redirected to the Capitol Preservation Board from funds appropriated one year ago for developing a prototype design. There are no further funds available for prototype design.

Joe Jenkins asked for further explanation of the redirection of the \$1.8 million. Mr. Nye responded by stated that DFCM has a Project Reserve Fund for projects that go under budget, therefore those savings go into the Project Reserve Fund. The statute governing this function requires for the Legislature to evaluate this Fund to see if there is any excess funds that would go beyond what would be needed to cover problems with future bids. DFCM reviewed the Fund balance last fall and recommended to the Board that we make available, a slightly smaller number then what was redirected. The larger amount redirected is the result of additional savings.

Mr. Nye then referred to the Comparison of Building Board Recommendations and Funding by the 2000 Legislature document distributed. Mr Walthers was accurate in that the Governor's recommendation for funding was just \$36 million for capital improvements, with a note that there were five other projects that he was willing to have on bond if the Legislature chose to do a bond. The Board recommended funding \$57 million for capital improvements. There was a fair amount of discussion throughout the session regarding how much to fund for capital improvements, however, there was no serious discussion of funding at the \$57 million level.

Chairman Adams asked Mr. Walthers to comment on his efforts to increase the amount of funding. Mr. Walthers indicated the Economist in the Fiscal Analyst Office is

predicting a very moderate growth in State funds for next year. Mr. Walthers further stated that the Legislature was a little concerned about tying their hands on \$9 million dollars, which would be about seven or eight percent of new money available for next year, and they looked at that as an option rather than obligating themselves to fund that amount of money. Richard Byfield indicated it is believed that they were balancing the equation in terms of capital funding and when the bond disappeared, the \$8 million that would have been added this year also disappeared. Mr. Walthers stated the bond money is there, it is just redirected from previous years. The actual bond amount for fiscal year 1999-2000 was still \$54 million. Mr. Nye indicated that what Mr. Byfield is referring to was that there was a lot of discussion in the Committee about authorizing additional bonds this year ranging anywhere from \$25 to \$45 million, at one point when they decided not to bond at all, other than for the redirection of previous bonds, it was when the funding for capital improvements seemed to take a different direction.

Mr. Walthers stated that next year, the capital improvement amount will go up approximately 9% or \$3.5 million. Chairman Adams respectfully disagreed saying that it would be insufficient to take care of the very basic needs of keeping our buildings in the kind of shape they should be kept in. Mr. Walthers pointed out that if you consider the fact that we have \$36 million in capital improvements and you look at the new State Hospital Rampton Building, that \$14 million would remove \$28 to \$38 million of deferred maintenance costs by knocking down the old building. Capital Improvements is only for taking care of deferred maintenance, Some deferred maintenance problems were too big for capital improvements to address. We actually need development dollars.

Mr. Nye pointed out that while the Legislature did not fund the capital budget at the level that the Board desired it would, the projects it funded, for the most part were within what the Board recommended. The main differences between the Board recommendations and Legislative action dealt with the amount of money provided for the larger projects. They also didn't provide as much for the Capital Improvements as the Board had recommended. They funded only a portion of the following projects: Heat Plant at USU; the Logan Court and a minimal amount for the Dixie College Fine Arts.

Mr. Nye reported that one of the projects that was authorized by the Legislature and was not heard by the Board at all was a Multi-Purpose Building at the Fairpark. The Legislature authorized the Building Ownership Authority to issue a lease revenue bond to finance about \$10.5 million, that would be repaid by revenues that they anticipate receiving from that project. There is some question as to whether revenues will be fully sufficient to cover the debt service. Chairman Adams asked Mr. Walthers to explain how the Legislature reacted to the request of the Fair Board to the information they

provided to underwrite the repayment of the \$10.5 million bond for the Multi-Purpose Facility to be constructed at the Fairpark. Mr. Walthers believes the Legislature felt like this was low risk way to get the Fairpark on the way to being on their own. If they come up short on the debt service payment of this bond, they would use funds from their operating budget. It is the Fairpark and the Fair Board's responsibility for making this work.

Chairman Adams indicated it was hard for the Board to figure out how the Legislature could have approved a project that had not been heard by the Board and there is no guaranteed source of repayment and on the other hand the Board presented projects that were diligently worked through the process, which the Legislature denied. Chairman Adams referred to handout "Funding Analysis for the last five years for State funds available to DFCM. If you were to add the Fairpark to FY 2000-2001, that raises funding to \$80 million, the prior year was \$118 million, the year before that was \$116 million, one year prior was \$104 million, one year prior was \$139 million, and in 1995-1996 was \$146 million. This year is clearly a low point in the amount of funding that the Legislature has made available for state buildings and programs at a time when we see inflation requiring nearly double the amount that it did just 10 years ago to do the same amount of work. The essence of the problem that the Board has been trying to establish a program with the Legislature that they are willing to support. We have to address a methodology whereby the Legislature is going to understand the nature of the situation pertaining to buildings in the State. Mr. Byfield pointed out to the same handout where it indicates a future funding plan which has been taken from information gathered by Kevin Walthers regarding no bonding for the future. It indicates a cash flow of \$86 million in FY 2001-02; FY 2002-03 up to \$88 million; FY 2003-04 up to \$115 million; FY 2004-05 up to \$126 million; and FY 2005-06 up to \$155 million. Actions of the Legislature and article from Rep. Jeff Alexander is part of where they see the future to be, rather than using debt over the next five years.

Dan Olsen stated that part of the reason that the Fairpark project did not come to the Board was simply because of timing. The Fairpark was in the process of going through the study in terms of what they would need as far as facility when the Building Board was having its hearings. DFCM was not involved in the study and that is an issue we are still dealing with. At the time the Building Board was holding its hearings, the Fairpark did not have anything to bring to the Board. They did not come up with this idea until January. Mr. Olsen also commented on the Future Base funding, it shows FY2001-02 as \$62 million, but in appropriations act, \$13 million is one-time money, therefore FY 2002 base budget will actually be \$13 million less than what is shown in the handout.

Lynne Ward joined the meeting at this point.

Mr. Nye referred to the handout "Funding for Capital Projects - History and Projection". He explained that it identified the level of state resources that have been committed to capital projects in each of the last five years. The state resources that were included consist of appropriations of state funds and debt that would be repaid with state funds. This includes lease revenue bonds where the repayment comes from state appropriations. Examples of non-state funding that were excluded from the analysis include donations, federal grants, proceeds from the sale of property, and business enterprise operations. Lease revenue bonds that would be repaid from non-state funds were also excluded. The document also includes a five-year history of the capital budget categories of improvements, developments and planning.

Another part of the document contains a future funding plan that was presented to the Legislature by Kevin Walthers. This plan assumes that no additional General Obligation Bonds are issued in the future and that the savings that builds each year in the debt service budget is redirected to the capital budget. Mr. Nye clarified that none of the amounts in the analysis have been adjusted for inflation and that inflation would reduce the value of the FY2007 amount by 25 to 30 per cent. Chairman Adams expressed his concern about the impact of inflation.

Mr. Walthers stated that lease revenue bonds have been issued to buy leased buildings and use the rent budget to pay for the building. He also explained his position that, if the Legislature shifted the base budget from debt service to capital projects, it would raise the on-going base budget for capital projects to \$155 million. He expects that this would be increased by an annual increase in capital improvement funding and the use of revenue bonds. Mr. Walthers noted that the Building Board's recommendation for a \$103 million bond would cost the State \$25 million of interest over a five year period. He preferred to spend that amount on buildings rather than interest.

Mr. Nye disagreed with Mr. Walthers regarding the lease revenue bonds. He said that a large portion, probably much more than half, of the lease revenue bonds listed in the analysis were to be repaid from new appropriations to the agencies using the space and not from a redirection of rent money.

Chairman Adams stated that state government will grow as the rest of the State grows and that the Legislature's plan does not address that growth. Mr. Nye noted his belief that the Legislature had misunderstood the Board's Five Year Plan. The Legislature thought that it had covered the Board's recommendations for the next five years when

it had really only covered the Board's recommendations for the current year. He suggested that the Board have a future discussion on how it presents its capital budget recommendations.

Mr. Nye noted that the 2000 Legislature had provided partial funding for the USU Heat Plant, Dixie College Fine Arts Building and Logan Court. The balance needed to fully fund these projects is \$56 million. He then pointed out that the Fiscal Analyst's future funding plan only provided \$86 million in FY2002. This would be insufficient to fund the balance of these three projects and also fund the minimum funding level for capital improvements. No other projects would be able to be funded.

Lynne Ward noted that about \$20 million of the FY2001 base funding of \$62 million was one-time money. She asked if the Legislature intended to replace the one-time funding with on-going funding. Mr. Walthers confirmed that this is their intent. This is a critical element of his plan and if it does not happen, it will be difficult to fund projects next year without a bond.

Mr. Nye briefly reviewed other actions of the legislature regarding legislation and intent language. He noted that SB 101 that would have changed the membership of the State Building Ownership Authority did not pass. Therefore, the Building Board members will continue to act in this capacity.

❑ CAPITAL BUDGET PRIORITIZATION PROCESS.....

Richard Byfield reported that feedback received regarding last year's priority settings for capital improvements included agencies feeling distressed because after they had placed a lot of effort into the projects they proposed, the Board did not consider them because it was going a different direction. Other issues included not full understanding of the Board's intention on the prioritization of projects involving remodeling and additions vs. new space, and also the policy on existing buildings and their rehabilitation, and growth issues. Agencies would like to get the Building Board's guidance on what type of projects would the Board seriously consider, prior to the hearing so that they could plan and have plenty of time to prepare. For example if an agency was asking for growth in a non-growth year.

Mr. Byfield explained the concept of the five year book which consists of the urgent needs for the current year and the balance of the requests are not prioritized. This needs to be expanded to a full five-year plan. One of the issues that needs to be urgently addressed is the capital needs assessment and deferred maintenance. Mr.

Byfield further welcomed suggestions on issues or items regarding the five year book (next year) from the Building Board and agencies. Agencies and institutions should be informed of what emphasis the Building Board will be taken at the upcoming October hearings.

☐ **MEETING SCHEDULE.....**

Chairman Adams stated that the next Building Board meeting was scheduled on April 19-20, 2000, two days of hearings and meeting. The hearing/meeting was reduce to one day, to be held on April 19, 2000. ***The meeting was later rescheduled to April 26, 2000, at the State Capitol Room #403, Salt Lake City.***

☐ **OTHER BUSINESS.....**

Chairman Adams reported on the Armory Board which dealt with the acquisition and disposition of property used by the National Guard. The members of the Armory Board are the Governor, the Chair of the Building Board and the Adjutant General. The Armory Board met on March 13, 2000. The National Guard requested approval for funds that have been obtained from the sale of the old Smithfield Armory and the Provo Armory to be used to enhance the project now underway at Camp Williams. This request was approved. This and other items related to the Armory Board will be discussed at the next Building Board meeting.

☐ **ADMINISTRATIVE REPORTS FOR DFCM**

Richard Byfield indicated there was an Executive Summary included in the Board packet identifying the most critical issues. The Board members had no questions on the report.

☐ **ADJOURNMENT**

The regular monthly meeting (morning session) adjourned at 10:20 a.m.

Minutes prepared by: Sylvia Haro